

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the following remarks.

Claims 1-20 were pending in the instant application at the time of the outstanding Office Action. Of these claims, Claims 1 and 20 are independent claims; the remaining claims are dependent claims. Independent Claims 1 and 20 have been amended and certain dependent claims have also been amended to conform to the amendments to the independent claims.

Applicants are not conceding in this application the claims amended herein are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1 and 20 stand objected to for asserted informalities. Claims 1-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,918,014 to Robinson. Claims 1-20 also stand rejected under 35 U.S.C. § 102(e) as being anticipated

by U.S. Patent No. 7,031,932 to Lipsky. Reconsideration and withdrawal of the objection and rejections is respectfully requested.

All of the pending claims as amended herein now incorporate the subject matter of Claims 1 and 20 to require “(a) receiving configuration data from the Internet merchant, **wherein such configuration data comprises a percentage of visitors to the Internet website who are to participate in experiments and time-related information concerning the experiments;** (b) randomly choosing visitors to the website to participate in the experiments according to the configuration data; (c) **running the experiments** according to the configuration data **on the randomly chosen visitors;** (d) **dynamically determining an optimal advertisement**, wherein the determination of the optimal advertisement involves real time learning from the analyses of the experiments of step (c)”. (see Specification at ¶¶ 91, 92, and 94) These claimed features (when combined with the remaining claim elements) are not taught or suggested by either Robinson nor Lipsky.

The prior comments on Robinson are equally appropriate here and are incorporated by reference. As previously explained, Robinson appears to be directed to displaying advertising to users of the World Wide Web based upon what “community” they are in. See Col. 2, lines 23-26 (“If the members of a particular consumer’s community tend to click on a particular Web ad, then there is a certain likelihood that the subject consumer will also tend to click on that ad.”) Robinson utilizes a training period for promotions to certain groups or communities of users to determine the effectiveness of an ad for a group or an individual that has been marked as a certain “community”.

Robinson does not teach or suggest running multiple experiments according to the configuration data on an on-going basis on randomly chosen visitors to the Internet website. Rather, Robinson polls visitors to a website that belongs to a certain community about an advertisement to determine if other members of that community would be interested in that advertisement. As can be seen, it is not a necessity of the instant invention to profile visitors, and the utilization of that profiling is not a necessary component in the determination of an advertisement.

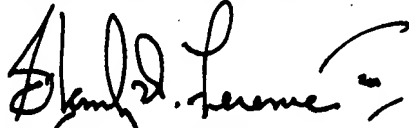
Furthermore, neither Robinson nor Lipsky teach the dynamic determination of an optimal advertisement wherein the determination of the optimal advertisement involves real time learning from the analyses of an experiment. There is no real-time learning in Robinson nor Lipsky. In fact, the teachings of Robinson specifically teach away from a real-time method, because historical data based on member profiles is utilized to determine advertisements. Similarly, the teachings of Lipsky specifically teach away from a real-time method, because the advertising is presented across multiple publishers and the need to renegotiate with each publisher for changes in the advertising.

As can be seen by the arguments shown above, there are numerous distinctions between the claimed invention and the teachings of Robinson and Lipsky. (Not all of the distinctions, however, were discussed above.) Accordingly, Applicants respectfully submit that Robinson fails to anticipate the present invention because, at the very least, “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under construction.” W.L. Fore & Associates, Inc. v. Garlock, 721 F.2d 1540, 1554 (Fed. Cir. 1983); see also In re Marshall, 198 U.S.P.Q. 344, 346 (C.C.P.A. 1978).

By virtue of dependence from what is believed to be allowable independent Claim 1, it is respectfully submitted that Claims 2-19 are also presently allowable. Thus, it is respectfully submitted that the instant application, including Claims 1-20, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited.

Should the claims not be in condition for immediate allowance, the courtesy of a telephone interview is requested prior to the issuance of a further Office Action.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stanley D. Ference III", with a stylized flourish at the end.

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